

In re: MARIA GUZMAN.
P.Q. Docket No. 00-0016.
Decision and Order.
Filed November 7, 2001.

PQ – Default – Importation, prohibited – Potatoes.

Rick Herndon, for Complainant.
Respondent, Pro se.

Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the movement of fruits and vegetables (7 C.F.R. § 319.56 *et seq.*), hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 *et seq.* and 380.1 *et seq.*

This proceeding was instituted under the Federal Plant Pest Act, as amended (7 U.S.C. §§ aa 150aa-150jj), the Plant Quarantine Act, as amended (7 U.S.C. §§ 151-154, 156-165 and 167) (Acts), and the regulations promulgated under the Acts, by a complaint filed on August 8, 2000, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.1.36(a). Section 1.136 (c) of the Rules of Practice (7 C.F.R. § 1.136 (c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136 (a) shall be deemed an admission of the allegations in the complaint. Further, the admission of the allegations in the complaint constitutes a waiver of hearing. (7 C.F.R. § 1.139).

Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.139).

Findings of Fact

a. Maria J. Guzman, herein referred to as the respondent, is an individual whose mailing address is 603 West 140th Street, Apartment #1, New York, New York 10031.

2. On or about September 2, 1999, at Jamaica, New York, respondent imported six pounds of potatoes from the Dominican Republic into the United States in violation of 7 C.F.R. §319.56 because importation of potatoes from the Dominican Republic into the United States is prohibited.

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Acts and the regulations issued under the Acts (7 C.F.R. § 319.56 *et seq.*). Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of five hundred dollars (\$500.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

Respondent shall indicate that payment is in reference to P.Q. Docket No. 00-0016.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to the proceeding. (7 C.F.R. § 1.145).

[This Decision and Order became final August 5, 2002.-Editor]
